IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:	:	Case No. 17-50670
ALFONZO T. & DANYELLE D. CHUBB,	:	Chapter 13
Debtors.	:	JUDGE CALDWELL

DEBTORS' MOTION TO AVOID STATUTORY JUDGMENT LIENS SECURED BY REAL ESTATE

Come now the Debtors pursuant to *Bankruptcy Rule 4003(b),* and *11 U.S.C. 506(a)* and *(d)* in conjunction with *11 U.S.C. 1325,* and *11 U.S.C. 1327,* and hereby MOVE this Honorable Court for an order avoiding the non-consensual statutory judgment liens in favor of the **OHIO STATE DEPARTMENT OF TAXATION** ("ODOT").

The Debtors request the Court to issue an order avoiding these liens as they are wholly unsecured based upon the lack of equity in the Debtors' residence. The factual and legal grounds supporting issuance of the order requested are more fully set forth in the accompanying Memorandum In Support, and the Exhibits attached hereto, which are herein incorporated by reference.

Respectfully submitted,

/s/ Christopher J. Spiroff

Christopher J. Spiroff (0042247)
1180 South High Street
Columbus, Ohio 43206
614.224.2104
Fax: 614.224.2066
admin@spirofflaw.com
Case Attorney for Debtors

MEMORANDUM IN SUPPORT

I. FACTS RELEVANT TO MOTION TO AVOID STATUTORY JUDGMENT LIENS

The Debtors own their residence as joint tenants with the right of survivorship. "Exhibit A". As of the order of relief, Debtors' realty estimated the market value of this property to be $188,300.00 (Doc. #21). "Exhibit B".

Debtors' real property is subject to a consensual, first and best mortgage lien in favor of Carrington Mortgage ("Carrington") in the estimated amount of $156,800.00. This mortgage was duly recorded with the Franklin County, Ohio Recorder. Carrington has yet to file a claim in the case.

The Debtors' residence is also subject to a junior consensual second mortgage in favor of the Secretary of the U.S. Department of HUD ("HUD") in the estimated amount of $49,638.00. This mortgage was duly recorded with the Franklin County, Ohio Recorder. HUD has yet to file a claim in the case.

Debtors' residence is also subject to two (2) non-consensual, statutory tax liens in favor of ODOT. These liens were filed with the Clerk of Court, Franklin County, Ohio Court of Common Pleas on January 9, 2015, and August 17, 2016 in the respective amounts of $475.00, and $434.00. "Exhibits C & D". [1] The Debtors seek order avoiding and releasing these statutory judgment liens held by ODOT as the same are wholly unsecured by any equity in the Debtors' residence.

The mathematical calculation relevant to proving the wholly unsecured status of these liens is as follows:

Debtors' Interest in Realty:	$188,300.00

[1] ODOT has yet to file a proof of claim in the case.

1st Mortgage to Carrington:	($156,800.00)
2nd Mortgage to HUD:	($ 49,638.00)
Subtotal of Liens:	($206,438.00)
ATTACHABLE EQUITY:	($ 18,138.00).

II. LEGAL AUTHORITY SUPPORTING AVOIDANCE OF JUDGMENT LIENS

The Debtors are seeking to avoid tow (2) non-consensual statutory tax liens purportedly secured by their primary residence. The Debtors assert that these liens are not secured by any equity in the Debtors' property, and are subject to avoidance on this basis. *11 U.S.C. 506(a)* and *(d)*, in conjunction with *11 U.S.C. 1325,* and *11 U.S.C. 1327*.

III. RELIEF REQUESTED

Based upon the foregoing, the Debtors respectfully request this Honorable Court to issue an order avoiding and forthwith authorizing the release of the following non-consensual, statutory tax liens of ODOT more particularly described as **15-JG01-000919**, and **16-JG08-031938,** which were filed for record with the Clerk of Court, Franklin County, Ohio Court of Common Pleas on January 9, 2015, and August 17, 2016, respectively; to issue an order avoiding these liens, and releasing and forthwith forever discharging the same of record, including all interest, penalties, costs, or any other charge related thereto; and that the Court grant the Debtors such other legal and equitable relief as this Court deems necessary and proper.

/s/ *Christopher J. Spiroff*

NOTICE OF FILING MOTION TO AVOID STATUTORY JUDGMENT LIENS

The Debtor has filed papers with this Court requesting that the statutory judgment liens of the OHIO STATE DEPARTMENT OF TAXATION be avoided by the Court, and released of record. **Your rights may be affected. You should read these papers carefully, and discuss this issue with your attorney, if you have one in this case. If you do not have counsel in this case, it is recommended that you consult an attorney.**

If you do not want the Court to grant the Debtor the relief requested in this Motion, or if you want the Court to consider your views on this Motion, then on or within **twenty-one (21)** days of the date of this Notice, you or your lawyer must file a written response with the Bankruptcy Court explaining your position at:

Clerk of Courts
United States Bankruptcy Court
170 North High Street
Columbus, OH 43215.

If you mail the request to the Court, be sure to mail it early enough so the Court will **receive** it on or before the dated stated above. You must also mail a copy to:

Frank M. Pees
Standing Chapter 13 Trustee
130 E. Wilson Bridge Rd., # 200
Worthington, OH 43085-6300

Christopher J. Spiroff, Esq.
1180 South High Street
Columbus, OH 43206

U.S. Trustee
170 N. High Street, #200
Columbus, OH 43215.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion, and may enter an Order granting that relief.

3/13/17 *\/s/ Christopher J. Spiroff*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Motion was served either through electronic transmission, or by regular, first-class, U.S. Mail, postage pre-paid, upon the following parties in interest, on the date and as indicated below:

3/13/17 */s/ Christopher J. Spiroff*

served electronically through the Court's ECF System at the email address registered with the Court

Frank M. Pees, Standing Chapter 13 Trustee
U.S. Trustee
Erin Marie Dooley, Esq.
Chrysostomos Manolis, Esq.

served by regular, first class U.S. Mail

Alfonzo T. & Danyelle D. Chubb, 7842 Astra Circle, Reynoldsburg, OH 43068

Ohio Department of Taxation, Bankruptcy Division, P.O. Box 530, Columbus, OH 43216

State of Ohio, Department of Taxation, c/o Ohio Attorney General, 150 E. Gay Street, 21ST Floor, Columbus, OH 43215-3190

Ohio Attorney General, 30 East Broad Street, 14th Floor, Columbus, OH 43215

201408210109950
Pgs: 2 $28.00 T20140056912
08/21/2014 3:19PM MEPFIRST OHIO
Terry J. Brown
Franklin County Recorder

A

15222

TRANSFERRED
AUG 21 2014
CLARENCE E. MINGO II
AUDITOR
FRANKLIN COUNTY, OHIO

Conveyance
Mandatory- 169.90
Permissive- 169.90
CLARENCE E. MINGO II
FRANKLIN COUNTY AUDITOR

SURVIVORSHIP DEED

File # [redacted]

KNOW ALL MEN BY THE PRESENTS THAT; Leisa Boakye-Dankwah, Married, Grantor(s), for Ten Dollars ($10.00) and other good and valuable consideration paid, grant, with general warranty covenants, to **Alfonzo T. Chubb and Danyelle D. Sawyer-Chubb, Husband and Wife,** Grantee(s), for their joint lives, remainder to the survivor of them, whose Tax Mailing Address will be 8435 North Stemmons Freeway, Dallas, TX 75247

The following described real property:

> **Situated in the State of Ohio, County of Franklin, and in the City of Reynoldsburg:**
>
> **Being Lot Number Eight (8), of Asbury Park Section 1, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 81, Page 34, Recorder's Office, Franklin County, Ohio.**

Parcel Number: 068-000111-00
Known as: 7842 Astra Cr
Reynoldsburg, OH 43068

Subject to covenants, conditions, restrictions, easements and zoning ordinances, if any, contained in prior instruments of record.

Excepting therefrom taxes and assessments if any, now a lien and thereafter due and payable.

Prior Instrument Number: Instrument Number 201111210152113, of the Records of the office of the Recorder, Franklin County, Ohio

Frank Kwadwo Acheampong, Spouse of Grantor, hereby releases all rights of **Dower** therein.

Witness his/her/their hand(s) this 31st day of July, 2014.

Leisa Boakye-Dankwah

Frank Kwadwo Acheampong

State of Ohio)
) SS
County of Franklin)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named Leisa Boakye-Dankwah and Frank Kwadwo Acheampong, Grantor(s) who acknowledged that they/he/she did sign this Warranty Deed and the same is their/his/her free act and deed.

In Testimony Whereof, I have hereunto set my hand and official seal, this 31st day of July, 2014.

Notary Public
Commission Expiration
Date: ______________

NOTARIAL SEAL
STATE OF OHIO

JORDAN L. BRADFORD
Notary Public
In and for the State of Ohio
My Commission Expires
December 28, 2018

This instrument was prepared by:

Thomas J. Olix, Attorney at Law
Olix & Associates, Co., L.P.A.
2131 Pinebrook Road
Columbus, Ohio 43220
[redacted]

SUBJECT

Property Address 7842 Astra Cir Check one: SFR PUD CONDO 2-4 Units
City Reynoldsburg County FRANKLIN State OH Zip Code 43068
Phone No. Res. N/A Loan Amount $ N/A Term N/A Mos. Owner's Est. of Value $ N/A

No. of Rooms	No. of Bedrooms	No. of Baths	Family room or den	Gross Living Area	Garage/Carport (specify type & no.)	Porches, Patio or Pool (specify)	Central Air
7	4	2.5	☐ Yes ☒ No	1,998 Sq. Ft.	2 CAR ATTCH	STOOP	☒ Yes ☐ No

FIELD REPORT

B

NEIGHBORHOOD

Location	☐ Urban	☒ Suburban	☐ Rural
Built Up	☒ Over 75%	☐ 25% to 75%	☐ Under 25%
Growth Rate ☐ Fully Dev.	☐ Rapid	☒ Steady	☐ Slow
Property Values	☐ Increasing	☒ Stable	☐ Declining
Demand/Supply	☐ Shortage	☒ In Balance	☐ Oversupply
Marketing Time	☐ Under 3 Mos.	☒ 4-6 Mos.	☐ Over 6 Mos.

	Good	Avg	Fair	Poor
Property Compatibility	☐	☒	☐	☐
General Appearance of Properties	☐	☒	☐	☐
Appeal to Market	☐	☒	☐	☐

Present Land Use 90% 1 Family ____ % 2-4 Family ____ % Apts. ____ % Condo 10% Commercial ____ % Industrial ____ % Vacant ____ %
Change in Present Land Use ☒ Not Likely ☐ Likely ☐ Taking Place From ____ To ____
Predominant Occupancy ☒ Owner ☐ Tenant 0 % Vacant
S/F Price Range $ 150,000 to $ 275,000 $ 200,000 = Predominant Value
S/Family Age 5 yrs. to 20 yrs. Predominant Age 17 yrs.

Comments including those factors affecting marketability (e.g. public parks, schools, view, noise) E BROAD ST THE NORTH, E MAIN ST TO THE SOUTH, WAGGONER RD TO THE EAST, LANCASTER AVE TO THE WEST. LOCATED IN ASHBURY PARK SUBDIVISION AMONG PROPERTIES WITH A VARIETY OF STYLES, VALUES AND APPEALS. AVERAGE ACCESS TO MAJOR ROADWAYS. I-270 LESS THAN 10 MINUTES. REYNOLDSBURG CITY SCHOOLS. LOCAL SHOPPING, CHURCHES, PARKS & RECREATION.

SUBJECT PROPERTY

Approx. Yr. Blt. 19 97 # Units 1 # Stories 2
Type (det, duplex, semi/det. etc.) DETACHED
Design (rambler, split, etc.) FRAME
Exterior Wall Mat. BRICK/VINYL Roof Mat. COMPOSITE ASPHL
Is the property in a HUD-Identified Special Flood Haz. Area? ☒ No ☐ Yes

PROPERTY RATING	Good	Avg	Fair	Poor
Condition of Exterior	☐	☒	☐	☐
Compatibility to Neighborhood	☐	☒	☐	☐
Appeal and Marketability	☐	☒	☐	☐

Special Energy-Effic. Items UNABLE TO VERIFY - APPRAISER UNABLE TO GAIN ENTRY. APPRAISER RESERVES THE RIGHT TO AMEND APPRAISAL IF INTERIOR INSPECTION IS WARRANTED.

Comments (favorable or unfavorable incl. deferred maintenance) AVERAGE EXTERIOR CONDITION. ROOF & GUTTERS APPEAR TO BE FUNCTIONAL. PURPOSE OF THIS APPRAISAL IS TO ESTIMATE MARKET VALUE. HIGHEST AND BEST USE SINGLE FAMILY RESIDENTIAL. EXTERIOR INSPECTION ONLY. INTERIOR BELIEVED TO BE CONSISTENT WITH EXTERIOR.

MARKET COMPARABLE ANALYSIS

ITEM	SUBJECT	COMPARABLE NO. 1		COMPARABLE NO. 2		COMPARABLE NO. 3	
Address	7842 Astra Cir Reynoldsburg, OH 43068	7743 Astra Cir Reynoldsburg, OH 43068		7751 Astra Cir Reynoldsburg, OH 43068		7797 Astra Cir Reynoldsburg, OH 43068	
Proximity to Sub.	N/A	0.04 miles S		0.05 miles SW		0.14 miles W	
Sales Price	$ N/A		$ 177,800		$ 185,000		$ 209,900
Date of Sale and Time Adjustment	DESCRIPTION	DESCRIPTION	+(−)$ Adjust.	DESCRIPTION	+(−)$ Adjust.	DESCRIPTION	+(−)$ Adjust.
	N/A	01/25/2017		12/30/2016		01/26/2017	
Location	ASHBURY PARK	ASHBURY PARK		ASHBURY PARK		ASHBURY PARK	
Site/View	RESIDENTIAL	RESIDENTIAL		RESIDENTIAL		RESIDENTIAL	
Age	20	17		17		17	
Condition	TYPICAL	TYPICAL		TYPICAL		TYPICAL	
Living Area Rm. Count and Total	Total 7 / B-rms. 4 / Baths 2.5	Total 8 / B-rms. 4 / Baths 2.5		Total 8 / B-rms. 4 / Baths 2.5		Total 8 / B-rms. 4 / Baths 2.5	
Gross Living Area	1,998 Sq. Ft.	2,216 Sq. Ft.	-3,270	2,177 Sq. Ft.	-2,685	2,083 Sq. Ft.	-1,275
Air Conditioning	YES	YES		YES		YES	
Garage/Carport	2 CAR ATTACH	2 CAR ATTACH		2 CAR ATTACH		2 CAR ATTACH	
Porches, Patio,	STOOP	STOOP		STOOP		PORCH	-1,000
Pools, etc.	N/A	DECK/PATIO	-2,000	DECK	-1,000	PATIO	-1,000
Special Energy-	INSL WINDOWS	INSL WINDOWS		INSL WINDOWS		INSL WINDOWS	
Efficient Items	FIREPLACE	N/A	+1,000	N/A	+1,000	FIREPLACE	
Other	PART BASEMENT	FULL BASEMENT	-1,000	FULL BASEMENT	-1,000	FULL BASEMENT	-1,000
Net Adjust (Total)		☐ + ☒ −	$ -5,270	☐ + ☒ −	$ -3,685	☐ + ☒ −	$ -4,275
Indicated Value Sub.			$ 172,530		$ 181,315		$ 205,625

General Comments FOR BANKRUPTCY COURT USE ONLY. DATA SOURCES REALIST AND PUBLIC RECORDS. SALES COMPARISON APPROACH USED IN THE FINAL ANALYSIS.

Estimated Value $ 188,300 as of MARCH 3, 2017

Completed By JAMES SMOOT Title APPRAISER

E2582 - R69

d

PRECIPE

DATE 07-30-16
COURT OF COMMON PLEAS OF FRANKLIN COUNTY

STATE OF OHIO
DEPARTMENT OF TAXATION

PLAINTIFF

MARYELLEN O'SHAUGHNESSY
FRANKLIN COUNTY CLERK OF COURT
373 SOUTH HIGH STREET
COLUMBUS,OH 43215

VS.

CHUBB, ALFONZO & SAWYER CHUBB, DANY

7842 ASTRA CIR

REYNOLDSBURG,OH 43068

DEFENDANT

TAX TYPE: PERSONAL SCHOOL DISTRICT TAX

CRN: 04201530617145

ACCOUNT NO.: 13815622

16JG-8 31938

2016 AUG 17 AM 10:33
FILED
CLERK OF COURTS-CV

THE AFOREMENTIONED ASSESSMENT HAS BECOME FINAL BY OPERATION OF LAW FOR THE PURPOSES OF HAVING A JUDGMENT LIEN RECORDED THEREON.

TO THE CLERK OF COMMON PLEAS COURT:

ENTER JUDGMENT AND RECORD CERTIFICATE OF JUDGMENT. RETAIN ONE COPY AND RETURN ONE COPY TO THE OFFICE OF THE ATTORNEY GENERAL

JUDGMENT RECORDED ON:

DATE:

AMOUNT $ 433.65

CASE NO.:

DOCKET:

PAGE:

I hereby certify the foregoing to be a true and correct copy of the action of the Tax Commissioner taken this date with respect to the above matter.

Joseph W. Testa
Tax Commissioner

LT450F/13815622

A13815622C99D999999999U

E2278 - J56

D

PRECIPE

DATE 11-08-14
COURT OF COMMON PLEAS OF FRANKLIN COUNTY 15J G-1 919

STATE OF OHIO
DEPARTMENT OF TAXATION

MARYELLEN O'SHAUGHNESSY
FRANKLIN COUNTY CLERK OF COURT
373 SOUTH HIGH STREET
COLUMBUS,OH 43215

PLAINTIFF

VS.

TAX TYPE: PERSONAL INCOME TAX

CHUBB, ALFONZO T & SAWYER-CHUBB, DA

3857 WINTERGREEN BLVD

CRN: 02201412079337

COLUMBUS,OH 43230

ACCOUNT NO [redacted]

DEFENDANT

THE AFOREMENTIONED ASSESSMENT HAS BECOME FINAL BY OPERATION OF LAW FOR THE PURPOSES OF HAVING A JUDGMENT LIEN RECORDED THEREON.

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2015 JAN -9 PM 2:02
CLERK OF COURTS-CV

TO THE CLERK OF COMMON PLEAS COURT:

ENTER JUDGMENT AND RECORD
CERTIFICATE OF JUDGMENT. RETAIN
ONE COPY AND RETURN ONE COPY TO THE
OFFICE OF THE ATTORNEY GENERAL

JUDGMENT RECORDED ON:

DATE: AMOUNT $ 474.60

CASE NO.:

DOCKET:

PAGE:

I hereby certify the foregoing to be a true and correct copy of the action of the Tax Commissioner taken this date with respect to the above matter.

LT450F/12662262

[redacted]. Testa
[redacted]issioner

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